City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
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CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number:	2500774
Applicant Name:	Hai Bach
Address of Proposal:	6727 16th Avenue SW

SUMMARY OF PROPOSED ACTIONS

Master Use Permit to establish use for future construction of two, 2-story single family residences each with attached two-car garages near an environmentally critical area. Existing single family residence to remain with surface parking for one vehicle to be provided. Existing detached garage to be removed. Project includes future unit lot subdivision.

The following approvals are required:

Environmentally Critical Areas Conditional Use - to allow recovery of development credit in a critical area in a single-family zone. SMC 25.09.260

SEPA - Environmental Determination - SMC Chapter 25.05.

SEPA DETERMINATION: [ ] Exempt [X] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

[ ] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

BACKGROUND DATA

Site and Vicinity Description

The 20,402 square foot subject site is zoned Single Family 5000, and located between SW Holly Street and SW Myrtle Street on 16th Avenue SW. The site is developed with one single family home and a detached garage.

The site topography slopes down to the northwest with approximately 10 feet difference between the highest and lowest elevation. DPD GIS mapping identifies wetlands on the subject site and this was confirmed by field investigation and wetland delineation report prepared by URS dated November 5, 2004. The subject site has a 404 square foot wetland in the northwest portion of the parcel. This is part of a larger wetland located on a vacant parcel to the west. No other ECA's have been identified on the site.

Zoning in the immediate and surrounding area is Single Family 5000 and 7200 and developed with residential homes. South Seattle Community College is located two blocks to the north.

16th Avenue SW is designated as an arterial street and is improved with roadway, curb, gutter and sidewalk on both sides of the street.

Proposal

The application is for the future construction of two single family homes with two car garages. The existing home will be retained but the detached garage will be demolished. The proponent for the project has applied for a short plat under a separate application (#2305110) to create three parcels of land.

One of the proposed homes on the north portion of the site (Parcel A) would encroach into the 50 foot wetland buffer if a 20 foot front yard setback was provided. The application has proposed a 15 foot front yard so the home does not encroach into the wetland buffer. The two new homes will be located on either side of the existing home. The proposed home on the south parcel (Parcel C) is to be in full compliance with the yard standards and would not be located in the wetland buffer.

The applicant seeks to recover density credit allowed under the ECA conditional use process. The allowed density not accounting for the wetland and buffer would allow for four, 5000 square foot lots or 4 homes. The application seeks to recover density credit to allow 3 homes.

The proposal also includes a planting plan which should enhance the wetland function.

Public Comment

One public comment was received during the comment period which ended on March 30, 2005. The comment letter raised concerns about potential flooding to adjacent property.

Environmentally Critical Areas Regulations

Seattle Municipal Code (SMC) 25.09.040 and 25.09.060 describes application submittal and general standards that apply to all development within designated Environmentally Critical Areas (ECA). General requirements and standards described in SMC 25.09.060 include the recording of conditions of approval and of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures. Conditions imposed as a means of compliance with the ECA ordinance are non-appealable.

SMC 25.09.160 provides specific standards for all development sites containing wetlands. The standards prohibit grading, filing, draining and or development within a wetland and its 50 foot buffer.

SMC 25.09.240, short subdivisions and subdivision provides standards for platting actions. The standards, in part, prohibit using wetland and wetland buffer area in the total lot area when calculating the number of lots permitted. In other words, the ECA area must be subtracted from the total lot area for calculation purposes.

SMC 25.09.280, ECA yard and setback reduction and variance for existing lots allows up to a maximum of five feet in yard requirement when necessary to maintain the full width of a wetland buffer. In this case, the proposed home on the north parcel would require a 5 foot yard reduction in order to meet the wetland development standards and avoid encroachment into the 50 foot wetland buffer. The 5 foot reduction of the yard may be accomplished administratively, as a Type I land use decision if the new home were to be on an existing lot as compared to one created by a short plat under review. The other proposed home is proposed to be compliant with the yard requirement for single family development and also be compliant to the wetland development standards in SMC 25.09.160.

SMC 25.09.260 provides a process for DPD to authorize the recovery of development credit in a single-family zone through an administrative conditional use review. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets the applicable criteria. An ECA Conditional Use decision is a Type II decision, subject to the provisions of SMC 23.76, and is appealable to the City Hearing Examiner. In this case, the applicant is seeking a short plat to create three lots and the lot area allowed to be used for platting precludes ECA's, like wetlands and buffers; therefore, the recovery of development credit ACU is required.

ANALYSIS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT

Section 23.42.042 of the Seattle Land Use Code authorizes review of conditional use permits according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. Section 25.09.260 of the ECA ordinance sets forth the review criteria for Administrative Conditional Use Permits [ACU] to recover development credit and permit clustered development in single-family zones. Applicable review criteria and supporting analysis follows:

A. *Up to full development credit on-site (determined by calculating the maximum number of lots allowed based on the underlying single-family zoning and size of the originating property) may be granted by the Director through an administrative conditional use permit, authorized under SMC Section 23.42.042, Conditional uses, in the Land Use Code.*

The minimum lot size in this zone is 5000 square feet. The subject site has approximately 20,402 square feet of area (inclusive of the wetland and its buffer). When the critical area and buffer are subtracted from the total lot area in calculating development credit, as required by SMC Section 25.09.240 D, only 12,887 square feet of non-critical lot area remains, which is less than the 15,000 square feet of lot area required for three lots (one house per lot). Thus, the subject site does not meet the development standards for a short subdivision contained in SMC Section 25.09.240. However, the conditional use provisions of Section 25.09.260, which incorporate the critical areas policies, allow recovery of development credit and reduction of yards and lot sizes through clustering as an alternative to strict application of Section 25.09.240 D. The applicant has therefore applied for an ECA administrative conditional use to both "recover" sufficient development credit to allow construction of two houses and the creation of three lots.

SMC Section 25.09.260 A allows recovery of development credit on a parcel of property provided that the criteria in that section are met.

Discussion of the criteria in subsection E (1-9) is followed by analysis of the clustering provisions of subsections F, G and H, and then by analysis of the general conditional use criteria of subsections B and C. Subsection D requires that DPD issue written findings of fact and conclusions to support its decision.

E. The Director may approve the transfer of development credit if it can be shown that the development would meet the following conditions and findings:

1. The transfer of development credit shall not result in any significant increase of negative environmental impacts, including erosion, on the identified ECA and its buffer;

The applicant submitted a wetland delineation report and planting plan prepared by URS dated November 5, 2004. Wetland determination and delineations were made on site by wetland biologists using the 1987 U.S. Army Corps of Engineers (Corps) *Wetlands Delineation Manua*l and the 1997 Washington State Department of Ecology (Ecology) *Wetland Identification and Delineation Manual.*

According to the report, the subject wetland on site is about 404 square feet and is classified as a category III wetland according to Ecology's rating system. There are four categories of wetland with category I having the most value and category IV having the least value. Category III wetlands generally provide a moderate level of functions, have been disturbed in some way, and are often less diverse or more isolated from other natural resources. The subject wetland is a category III, "due to its small size, lack of hydrologic functions, disturbed buffer and isolation from other natural areas…" The report also concluded that the wetland is considered degraded, "…It appears to once have been part of a larger wetland complex, which has been fragmented by development over the last century dominated by non-native species such as Kentucky bluegrass and creeping buttercup. In addition, the wetland buffer currently contains houses, lawns, driveways and fences…"

The proposed development is to be outside the 50 foot wetland buffer so no significant increase in negative impacts is expected. Additionally, the revegetation of the wetland and wetland buffer as proposed in the planting plan should enhance the wetland and wetland buffer by establishing native trees and shrubs as compared to the non-native vegetation that currently exists. The native vegetation is expected to improve the wetland; thus this criterion is met

2. *The development shall be reasonably compatible with neighborhood characteristics. This shall include but not be limited to concerns such as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining;*

The proposed project will be compliant with height, bulk and scale standards and meet all yard standards except for the 15 foot front yard on the most northerly home. The proposed home design includes modulation so that the portion of the home within 15 feet of the property line comprises only 11.5 feet in width. The remainder of the façade is 17 to 20 feet from the front property line. Most homes in the neighborhood seem to provide at least a 20 foot front yard (based on GIS mapping); however, a 15 foot front yard is reasonably compatible with this pattern considering the façade modulation proposed. The proposal is not expected to impact the pedestrian environment and will not remove vegetation other than lawn. This criterion is met.

3. *In no case shall development credit be allowed for the area covered by an open water area of a wetland or riparian corridor.*

No development is proposed for an area covered by open water of a wetland or riparian corridor, so this criterion is met.

4. *The development shall retain and protect vegetation on designated undisturbed areas on and off site. Significant species or stands of trees shall be protected, and tree removal shall be minimized. Replacement and establishment of trees and vegetation shall be required where it is not possible to save trees.*

The proposal includes a planting plan and does not impact a significant number of trees or vegetation. This criterion is met.

5. *The ability of natural drainage systems to control the quality and quantity of stormwater runoff shall not be significantly impaired.*

The wetland report specifies, "…The main sources of water for Wetland A appear to be surface water runoff, direct precipitation, and a high water table has no channelized inputs from surrounding uplands" The stormwater runoff from the new home footprints will be collected from the roof and tightlined to the City stormwater pipe or combined system in the street right of way. This should not impact water quality or drainage systems. As mentioned in the wetland report and later confirmed by Jeff Walker of URS, the wetland does not primarily rely on water runoff for its main source of water in that there are number of water sources for this wetland. This criterion is met.

6. *The development shall not adversely affect water quality and quantity, erosion potential, drainage, and slope stability of other ECAs located in the same drainage basin.*

We have found no indication that the development would adversely affect water quality and quantity, erosion potential, and/or drainage. This criterion is met.

7. *The development's site plan shall include measures to minimize potential negative effects of the development on the undeveloped portion of the site, including provision of natural barriers.*

The design and siting of the homes will minimize potential negative effects on the wetland and wetland buffer. The full width of wetland buffer for the new development will be provided and a fence will be erected to delineate the buffer. The existing home currently encroaches into the wetland buffer and no fence or other barrier protects the wetland. A condition shall be imposed that requires a fence around the existing home so that the remaining buffer will be protected. Additionally, the applicant will be required to record an ECA convent disclosing the wetland and buffer. This covenant shall run with the land.

8. *Adequate infrastructure (streets and utilities) shall be available or will be provided; and*

Adequate infrastructure of streets and utilities are presently available. The eighth criterion is met.

9. *The Site Design Guidelines of Section 25.09.180C shall be followed for designated steep slope areas.*

This criterion is not applicable.

F. *The Director may approve more than one (1) dwelling unit per lot and may approve smaller than required lot sizes and yards to accommodate recovery of development credit, and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected area. Full development credit on-site shall not be increased beyond that permitted by the underlying single-family zone.*

The Director is approving a 15 foot front yard for Parcel A of the proposed short plat (#2305110) so that development does not encroach into the buffer or wetland. A 15 foot setback will provide about a 5 foot setback from the buffer to the wall of the home. This will provide area between the home and buffer for construction staging and over excavation for the foundation of the home. In the long term the 5 foot setback will provide room for a deck and for maintenance of the house. The future plat is expected to create three legal building sites, with one house on each lot.

G. *The Director may require that structures be located on the site in order to preserve or enhance topographical conditions, adjacent uses and the layout of the project and to maintain a compatible scale and design with the surrounding community. In order to*

approve clustered dwelling units in all environmentally critical areas, the following criteria shall be met:

1. *Clustering of units shall help to protect the following critical areas: riparian corridors, wetlands and steep slopes;*
2. *Clustering of units shall require siting of structures to minimize disturbance of the environment;*
3. *Clustering of units shall help to protect priority species or stands of mature trees;*
4. *Clustering of units shall ensure maximum retention of topographic features;*
5. *Clustering of units shall limit location of access and circulation to maximize the protection of an area's natural character and environmental resource;*
6. *Clustering of units shall help protect the visual continuity of natural greenery, tree canopy, and wildlife habitat;*
7. *Clustering of units shall not have an adverse impact on the character, design and scale of the surrounding neighborhood; and*
8. *Clustering of units shall promote expansion, restoration or enhancement of a riparian corridor and its buffer, a wetland and its buffer or a steep-slope area and its buffer*

The clustering in this case constitutes a 5 foot reduction of the front yard for proposed Parcel A (the northern portion of the site). The full width of the wetland buffer will be provided with no new encroachment or disturbance of the wetland or buffer. The proposal will help to protect wetlands, minimize disturbance, not impact trees and enhance the wetland pursuant to the planting plan. There are no significant topographic features on this site. The character of the site is not defined by its natural character, natural greenery or wildlife habitat in that the wetland is small is size and in an urban setting. Therefore, the areas natural character and environmental resource, natural greenery, tree canopy and wildlife habitat will be enhanced by the proposed planting plan. The new homes should not have an adverse impact on the character, design or scale of the surrounding neighborhood. All the above criteria are met.

H. Additional Conditional Use Provisions for Steep Slopes and Steep-slope Buffers.

1. *In steep-slope areas and their buffers, the Director may allow clustering on the steep-slope portions of the site when the site is predominantly characterized by steep slopes. However, the preference shall be to cluster away from steep-slope and buffer areas.*

2. *The Director shall require clear and convincing evidence that the clustering criteria and findings of this subchapter are met when a transfer in development credit within a steep-slope area is also characterized by or adjacent to:*

   a. *A wetland over fifteen hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor; or*
   b. *A large (over five (5) acres) undeveloped steep-slope system; or*

c. Areas designated by the Washington Department of Wildlife as urban natural open space habitat areas or areas with significant tree cover providing valuable wildlife habitat.

The site does not contain steep slope therefore this criteria is not applicable.

B. The Director may approve, condition or deny an application for an administrative conditional use. The Director's decision shall be based on a determination of whether the proposed transfer of development credit within the site meets the criteria for allowing the specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

As discussed above, the proposed transfer of development credit and clustering within the site meets the conditional use criteria for approval. As proposed, and subject to the conditions of approval of this decision, the development would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity.

C. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

Conditions have been included to mitigate potential adverse negative impacts. These conditions are set forth following the SEPA analysis below.

DECISION – Administrative Conditional Use

The proposal to recover development credit is **CONDITIONALLY GRANTED.**

ANALYSIS - SEPA

The proposal site contains a wetland, thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated February 25, 2005 and annotated by the Department.

The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 23.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact; it shall be presumed that such regulations are adequate to achieve sufficient mitigation subject to some limitation". The Overview Policy in SMC 23.05.665 D1-7, states that in limited circumstances it may be appropriate to deny or mitigate a project based on adverse environmental impacts.

The policies for specific elements of the environment (SMC 25.05.675) describe the relationship with the Overview Policy and indicate when the Overview Policy is applicable. Not all elements of the environment are subject to the Overview Policy (e.g., Traffic and Transportation, Plants and Animals and Shadows on Open Spaces).

Short-term Impacts

Construction of the proposed single family homes may have short-term impacts on the environment; however, temporary soil erosion impacts on the wetlands will be limited and relatively minor.

Several adopted codes and/or ordinances provide mitigation for temporary soil erosion. The Environmentally Critical Areas regulations provides rules to protect the public health, safety and welfare, promote safe development through the use of the best possible planning and engineering techniques, and prevents harm to the environment. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The Building Code provides for construction measures and life safety issues. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces, increased bulk and scale on the site; increased traffic in the area and increased demand for parking; increased demand for public services and utilities; increased ambient noise and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance and the Stormwater, Grading and Drainage Control Code. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of long term impacts on the identified environmentally critical area.

Other Impacts

The other impacts such as but not limited to, increased ambient noise, increased traffic in the area; increased demand for parking; increased bulk and scale; and increased demand on public

services and utilities are mitigated by codes and are not sufficiently adverse to warrant further mitigation by condition.

The proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations and no further conditioning is necessary.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT:

Prior to the issuance of the Master Use Permit

The owner and/or responsible party shall update the plans to:

1. Show a wood fence (preferably split rail) which denotes the boundary between the wetland buffer and non-buffer area. On Parcel B, the wood fence shall be located no more than 5 feet from the side wall of the home and 10 feet from the rear wall of the home. On Parcel A and C the fence shall follow the 50 foot buffer line. The fencing shall be fully connected to create a continuous boundary.

Prior to Occupancy of the homes

2. Install the plantings in the wetland buffer pursuant to the Planting Plan prepared by URS dated November 5, 2004.

For the life of the project

3. The fence described in number 1 above shall be kept in place and maintained.

Nonappealable Conditions of Approval Prior to Issuance of a Master Use Permit

1. Record a covenant that restricts development to the area designated on the site plan for disturbance. The covenant shall show the location of permanent ECA markers and

provide for their maintenance by the property owners or other responsible parties. The covenant shall be in the form given to the applicant by DPD.

2. Permanent visible markers must be placed along the edge of the nondisturbance area as approved on the site plan. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the edge of the nondisturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit.

CONDITIONS – SEPA

None.

Signature: (signature on file) Date: October 31, 2005
Jess Harris, Senior Land Use Planner
Department of Planning and Development

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